IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12046 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMANBHAI GAGABHAI ZALA & 1 - Petitioner(s)
Versus
BHAGWANSINH M.VAGHELA & 1 - Respondent(s)

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Appearance :

MR HARSHADRAY A DAVE for Petitioner(s) : 1 - 2.MR HARDIK A DAVE for Petitioner(s) : 1 - 2.
DS AFF.NOT FILED (N) for Respondent(s) : 1 - 2.
MR PV NANAVATI for Respondent(s) : 2,
MR VIBHUTI NANAVATI for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 04/04/2007

ORAL JUDGMENT

Rule. Mr. PV Nanavati, learned advocate for respondent no. 2

waives service of rule. Presence of respondent no. 1 is not required since this petition is only filed for disbursement of the award amount which has been deposited by the insurance company with the concerned Tribunal. Insurance company has not challenged its liability to pay the compensation since this is the award based on compromise arrived between the parties.

2. The petitioners had filed Claim Petition before Motor Accident Claims Tribunal, Kheda at Nadiad for receiving compensation for the death of their son named Bhimsinh, aged about 20 years, in a vehicular accident which occurred on 31/1/2000, while he was travelling in vehicle namely, tractor attached with trolley. On conclusion of the proceedings, the Tribunal awarded a sum of Rs.2,76,500/- by way of compensation. The award is dated 9/12/2004. Both the petitioners are entitled to receive 50% of the total amount. However, the shares of both the petitioners are ordered to be invested in the fixed deposit in their respective names in nationalized bank or post office of their choice for a period of 5 years. Of-course, it is stated by Mr. Harshadray A Dave, learned advocate for the petitioners that the amount is still lying with the concerned Tribunal.

3. Having heard Mr. Dave, learned advocate for the petitioners and Mr. Nanavati, learned advocate for respondent no. 2 and having perused the record of this petition, it appears that the petitioners are in need of some finance since the earning member of the family i.e., their son has lost his life. In view of the same, the Tribunal is directed to disburse 30% each of the award amount

together with proportionate costs and interest on the said amounts to petitioners by account payee cheque after due verification. The Tribunal shall invest the balance amount as per its directions contained in the aforesaid order.

With this direction, this petition is partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

[Akshay H Mehta, J.]

* Pansala.